

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

THE LINCOLN NATIONAL LIFE
INSURANCE COMPANY,

Plaintiff,

v.

H. THOMAS MORAN, II, Court-Appointed
Receiver of LYDIA CAPITAL, LLC,

Defendants.

Civil No.08cv23 IEG (NLS)

ORDER:

**(1) GRANTING IN PART AND
DENYING IN PART DEFENDANT
MORAN'S EX PARTE APPLICATION
TO CONTINUE EARLY NEUTRAL
EVALUATION CONFERENCE AND
APPEAR BY TELEPHONE [Doc. No.
19]; and**

**(2) GRANTING IN PART AND
DENYING IN PART PLAINTIFF'S EX
PARTE APPLICATION TO CONTINUE
EARLY NEUTRAL EVALUATION
CONFERENCE AND APPEAR BY
TELEPHONE [Doc. No. 20].**

Defendant Moran filed an ex parte application to continue the Early Neutral Evaluation conference (ENE). He says the parties have engaged in some discovery and would like additional time to review documents before participating in the ENE. Moran, the court-appointed receiver, also seeks leave to appear by telephone at the ENE. Plaintiff also filed an ex parte application to continue the ENE because it believes the exchange of preliminary discovery would be beneficial before the ENE. It also requests that its client representative be allowed to appear by telephone. For the following reasons, the Court **GRANTS in part** and **DENIES in part** the two ex parte applications.

Because the parties seek additional time to engage in preliminary discovery, the Court finds that an ENE would not be beneficial at this point, and **VACATES** the ENE set for May 19, 2008. Because

1 the ENE is vacated, the parties' requests to appear by telephone are denied as moot.

2 Further, the Court now orders compliance with Federal Rule of Civil Procedure 26 and sets a
3 telephonic case management conference (CMC) for counsel and the Court to discuss the litigation
4 schedule. At the CMC, the parties can advise the Court if they are interested to conduct an early
5 Voluntary Settlement Conference.

6 1. Counsel are ordered to appear **telephonically** on **June 13, 2008 at 10:30 a.m.** before
7 Magistrate Judge Stormes for a Case Management Conference pursuant to Federal Rule of Civil
8 Procedure 16(b). Plaintiff's counsel shall initiate the telephonic conference.

9 2. The Rule 26(f) conference shall be completed on or before **May 27, 2008.**

10 3. A Joint Discovery Plan shall be lodged with Magistrate Judge Stormes on or before
11 **June 2, 2008.** (The date and time for the CMC should be included in the caption of the Joint Discovery
12 Plan.)


13 4. The date of initial disclosure pursuant to Rule 26(a)(1)(A-D) shall occur on or before
14 **June 6, 2008.**

15 Plaintiff's(s') counsel shall serve a copy of this order on all parties that enter this case hereafter.
16 Each responsible attorney of record and all parties representing themselves shall participate in the
17 conference. Represented parties need not participate.

18 Failure of any counsel or party to comply with this order will result in sanctions.

19 **IT IS SO ORDERED.**

20 DATED: May 8, 2008

21 
22 Hon. Nita L. Stormes
23 U.S. Magistrate Judge
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